REMARKS

In the non-final Office Action, the Examiner rejects claims 1, 3-16 and 18-31 under U.S.C. § 103(a) as being unpatentable over MULTERER et al. (U.S. Patent Application Publication No. 2004/0002384) in view of KO et al. (U.S. Patent Application Publication No. 2002/0013882) in view of SMITH et al. (U.S. Patent No. 6,487,522). Applicants respectfully traverse this rejection.[1]

By way of the present amendment, Applicants amend claims 1, 12, 24 and 31 to improve form. No new matter has been added by way of the present amendment. Claims 1, 3-16 and 18-31 remain pending in this application.

Pending claims 1, 3-16 and 18-31 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over MULTERER et al. in view of KO et al. and further in view of SMITH et al. Applicants respectfully traverse this rejection.

Amended independent claim 1 is directed to a method for establishing a gaming session between a first network device that includes an operating system and at least one second network device in a communications network. The method includes modifying the first network device for the gaming session, the modifying including, loading a new operating system, booting the first network device up in the new operating system, detecting a hardware configuration of the first network device, generating a configuration file based on the detecting, compiling network access software and peering software

using the configuration file, and installing the network access software and the peering software using the configuration file; connecting the first network device to the communications network; and establishing a peer-to-peer gaming session with the at least one second network device. MULTERER et al., KO et al. and SMITH et al., either individually or in any reasonable combination, do not disclose or suggest this combination of features.

For example, MULTERER et al., KO et al. and SMITH et al. do not disclose or suggest compiling network access software and peering software using the configuration file (which is generated based on detecting a hardware configuration of the first network device), as recited in amended claim 1.

MULTERER et al., at paragraphs [0006] – [0009], discloses a method and system to discover and distribute game session information. A match-making system 104 advertises new gaming sessions, game descriptions, availability and other gaming information (MULTERER et al. at paragraph [0043]). The system of MULTERER et al. allows users to accept and send invitations to join games (MULTERER et al. at paragraph [0053]). However, MULTERER et al. does not mention compiling of any software. Thus, MULTERER et al. does not disclose or suggest compiling network access software and peering software using the configuration file (which is generated

[1] As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, reasons for modifying a reference and/or combining references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

based on detecting a hardware configuration of the first network device), as required in amended independent claim 1.

KO et al., at paragraph [0033], discloses a recordable optical disc that includes an operating system and user configuration files. This optical disc may be portable to different types of machines and apparatuses (KO et al. at paragraph [0040]). A linker 160 checks the system configuration and loads the operating system onto a computer (KO et al. at paragraph [0036]). After the computer is turned on, the linker 160 checks the installation status and determines whether the hardware from a list of hardware devices are responsive (KO et al. at paragraph [0036]). Once the linker determines that there are no critical problems, the linker boots the program and at the same time, displays a status of the hardware (KO et al. at paragraph [0036]). However, KO et al. does not even mention compiling software. Thus, KO et al. does not disclose or suggest compiling network access software and peering software using the configuration file (which is generated based on detecting a hardware configuration of the first network device), as required by amended independent claim 1.

SMITH et al. merely discloses the installation of executable applications onto hardware. SMITH et al. does not disclose any compiling of any software. In fact, it appears that the software downloaded in the SMITH et al. document is already in executable (i.e. post-compiled) form. Thus, there would be no need to compile network access software and peering software using the configuration file (which is generated based on detecting a hardware configuration of the first network device), as required by independent claim 1, in the SMITH et al. system.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over MULTERER et al., KO et al. and SMITH et al. either individually or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 103(a) based on MULTERER et al., KO et al. and SMITH et al. be reconsidered and withdrawn.

Claims 3-11 depend from claim 1. Therefore, these claims are patentable over MULTERER et al., KO et al. and SMITH et al., either individually or in any reasonable combination, for at least the reasons given above with respect to claim 1. Thus, Applicants respectfully request that the rejection of claims 3-11 under 35 U.S.C. § 103(a) based on MULTERER et al., KO et al. and SMITH et al. be reconsidered and withdrawn. Moreover, these claims recite additional features not disclosed or suggested by MULTERER et al., KO et al. and SMITH et al.

For example, claim 6 recites that the server (of claim 5) includes an Internet Relay Chat (IRC) server. The Office Action acknowledges that MULTERER et al. and KO et al. do not disclose this feature (Office Action, p. 4). The Office Action, on page 5, alleges that:

> "Official Notice" is taken that both the concepts and advantages of providing for IRC servers to connect to are well known in the art. It would have been obvious … to modify the system of Multerer-Ko to include an IRC server connection in order to allow users to connect to an IRC server in order to communicate via a well known protocol to a server and receive data from the server.

Applicants traverse the "Official Notice" and request that the Examiner provide a reference that discloses that connecting prior to establishing a peer-to-peer gaming

session to a server that includes an IRC server is well-known in the art. Moreover, Applicants submit that the Office Action's allegation is conclusory and, thus, insufficient for establishing a *prima facie* case of obviousness. The Office Action does not provide any reasonable evidence as to why one skilled in the art at the time of Applicants' invention would have been motivated to incorporate connecting, prior to establishing the peer-to-peer gaming session, to a server that includes an IRC server into the MULTERER et al. system. Applicants submit that the Office Action's motivation is based on impermissible hindsight. SMITH et al. does not disclose this feature because SMITH et al. does not even mention IRC servers.

For at least this reason, Applicants submit that claim 6 is patentable over MULTERER et al., KO et al. and SMITH et al., either individually or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 6 under 35 U.S.C. § 103(a) based on MULTERER et al., KO et al. and SMITH et al. be reconsidered and withdrawn.

Independent claims 12, 24 and 31 recite features similar to (yet possibly of different scope than) features described above with respect to claim 1. Therefore, Applicants submit that claims 12, 24 and 31 are patentable over MULTERER et al., KO et al. and SMITH et al., either individually or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 1. Thus, Applicants respectfully request that the rejection of claims 12, 24 and 31 under 35 U.S.C. § 103(a) based on MULTERER et al., KO et al. and SMITH et al. be reconsidered and withdrawn.

Claims 13-16 and 18-23 depend from claim 12. Therefore, these claims are patentable over MULTERER et al., KO et al. and SMITH et al. whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 12. Thus, Applicants respectfully request that the rejection of claims 13-16 and 18-23 under 35 U.S.C. § 103(a) based on MULTERER et al., KO et al. and SMITH et al. be reconsidered and withdrawn.

Claims 25-30 depend from claim 24. Therefore, these claims are patentable over MULTERER et al., KO et al. and SMITH et al. either individually or in any reasonable combination, for at least the reasons given above with respect to claim 24. Thus, Applicants respectfully request that the rejection of claims 25-30 under 35 U.S.C. § 103(a) based on MULTERER et al., KO et al. and SMITH et al. be reconsidered and withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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